

4 copies

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKHernandez, Victor

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Kirby Forensic Psychiatric
HospitalSHIA DanielsSHIA Supervisor FieldsVincent MicelliJohn DoeR.N Jimenez

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983

(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)**I. Parties in this complaint:**

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Hernandez Victor

ID #

349-14-00129

Current Institution

Rikers Island

Address

69-09 Hazen Street
East Elmhurst, N.Y 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

Kirby Forensic Psychiatric Hospital

Shield #

Where Currently Employed

Address

Wards Island, N.Y.
10035-6095

Defendant No. 2 Name SHTA Daniels Shield # _____
 Where Currently Employed Kirby Forensic Psychiatric Center Hospital
 Address 3 West Wards Island
N.Y. N.Y. 10035-6095

Defendant No. 3 Name SHTA Supervisor Fields Shield # _____
 Where Currently Employed Kirby Forensic Psychiatric Hospital
 Address 3 West Wards Island
N.Y. N.Y. 10035-6095

Defendant No. 4 Name R.N. John Doe Jiminez Shield # _____
 Where Currently Employed Kirby Forensic Psychiatric Hospital
 Address 3 West Wards Island
N.Y. N.Y. 10035-6095

Defendant No. 5 Name Vincent Miccolli Director of operation Shield # _____
 Where Currently Employed Kirby Forensic Psychiatric Hospital
 Address 3 West Wards Island
N.Y. N.Y. 10035-6095

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur?
Kirby Forensic Psychiatric Hospital Wards Island
N.Y. N.Y. 10035
- B. Where in the institution did the events giving rise to your claim(s) occur?
3 West
- C. What date and approximate time did the events giving rise to your claim(s) occur?
January 1, 2014 - 12 Noon

D. Facts:

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

On January 1, 2014, SHTA Daniels a worker employed at 3West revealed to Patients Gonzalez, Juan Castro, Faton, and Santana that he was HIV positive without my consent. I was in a state of disbelief and shock and could not believe my ears that a worker would compromise and violate HIPAA rules and regulations revealing my HIV status to patients so they could look at me differently. When I found out about that information I brought it up to the Director of Operations Vincent Muccilli, SHTA Supervisor, Ms. Fielding and they did nothing. Kirby Hospital is registered not to reveal any of my health problems to anyone other than the doctor and me.

I wrote patients: Castro, Faton, Gonzalez and Santana & signed a petition for me witnessing that in fact SHTA worker Daniels violated HIPAA policies by telling about patients my HIV status. This is cruel and he should be terminated on site. After he told the inmates of my HIV. They started acting unfriendly and calling me the monster w. the AIDS.

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Psychological stigma for a lifetime that people at Kirby such as patients and workers know my HIV status. Mental anguish and depression, and I see a therapist on Killets 1 a week for it.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒No ☒

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Kirby Forensic Psychiatric Hospital
which is a State operated Hospital Jail.

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Office of Civil Rights and to Vincent Niccolli

1. Which claim(s) in this complaint did you grieve? That Daniels an
SHA worker violated HIPAA law by disclosing my HIV
status.

2. What was the result, if any? Nothing has been done by the
Director Vincent Niccolli or Supervisor Fields or OCR.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

Tried contacting Office of Civil Rights.
I don't know how a claim can be made
against the state.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: _____

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____
- _____
- _____
- _____
- _____
- _____

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

dam demanding a civil trial as to why SHTA Worker Daniels disclosed my H-1B status to inmates: Gonzalez, Juan Castro, Rikun and Sankar. Wherefore I am demanding a judgment against the Defendant Kirby Psychiatric Hospital in the sum of \$5,000,000 dollars and at a sum or lien against Daniels in the amount of \$1,000,000 dollars for disclosing my H-1B status that has damaged me psychologically for life.

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ____

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 11 day of July, 2014

Signature of Plaintiff

Inmate Number

Institution Address

Vito Hernandez
349-14-00129
G.R.V.C.
09-09 Hazen Street
East Elmhurst, N.Y 11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 11 day of July, 2014, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Vito Hernandez